



TO: Members of the Connecticut Joint Environment Committee

FROM: American Beverage Association

DATE: February 27, 2023

SUBJECT: Comments of the American Beverage Association on HB 6664

On behalf of the American Beverage Association and our local Connecticut bottlers, we appreciate the opportunity to comment on HB 6664, creating an extended producer responsibility (EPR) program for packaging, food-service items, and paper products and establishing minimum recycled content standards for plastic beverage containers in Connecticut. Our industry has developed principles based on best practices and legislation around these important issues. EPR is a policy that we believe can bring much-needed improvements to the state's recycling programs if the policy is well designed and operated. Recycled content requirements can be effective, but these laws must be well designed and are better suited for materials with weak markets, not packages like our PET bottles, which are in high demand already.

The non-alcoholic beverage industry in Connecticut consists of local beverage manufacturers and distributors. Our industry provides good jobs to more than 3,000 Connecticut residents and has a wide footprint with facilities located throughout the state. We are proud of the products we make, our commitment to local communities, and our commitment to the environment.

Our industry understands the important role we play in the circular recycling economy. Our packaging is specifically designed and optimized for recycling. We make PET bottles and aluminum cans that are 100% recyclable. Those containers have a high commodity value, and when collected and recycled, can become new bottles and cans as intended. The industry has invested in local and regional recycling infrastructure for more than 40 years. We have also made commitments to collect and recycle packaging waste, to incorporate more recycled content into our PET bottles, and to reduce the amount of new plastic in our bottles.

At a national and local level, we are working to get every bottle back to meet these ambitious goals and support a circular economy for our beverage containers. In 2019, the beverage industry launched Every Bottle Back, a commitment with leading environmental and recycling groups to invest \$100 million in improvements to collection systems. This investment will reduce new plastic use by increasing collection of the industry's valuable bottles so they can be remade into new ones. More information can be found at <https://everybottleback.org>.

Minimum Recycled Content

The legislation proposes recycled content standards only for plastic beverage containers, while standards for other materials would be proposed by the PRO after the needs assessment is conducted. We recommend that a similar needs assessment process be followed for plastic beverage containers before any mandates are proposed.

We cannot support the language as proposed in Section 2 as it is inconsistent with best practices and with similar legislation enacted in recent years in Maine, New Jersey, and Washington. It also does not promote regional uniformity which is a significant problem as beverage containers are regionally distributed. The beverage industry worked with legislators in those states to help craft workable language and would be willing to do the same in Connecticut. Some key concerns are:

- Averaging language is not clear, implying that each container sold must be in compliance with standards – an impractical standard.
- Caps, closures, and labels should not be part of the container for the purpose of measuring the container's recycled content.
- The state's study of whether standards are achievable comes two years *after* the first target date for compliance.
- The law should include both a variance process whereby producers petition the state to consider broad-based factors (*e.g.*, pandemics, oil shocks, wars) leading to a variance for all producers for a given material/year as well as a waiver process for individual producers who may face unique circumstances with compliance such as interruptions of their individual supply chains, damage to facilities, lost contracts, *etc.*
- Third party certification requirements are problematic, since there are no widely recognized entities providing this type of service.
- Publishing company data on the state's website creates competitive issues for producers.

Extended Producer Responsibility

Many of our containers are already subject to the bottle bill in Connecticut, and HB 6664 exempts those containers from the new EPR system, but our remaining containers and other packaging would be subject to this new legislation. We believe a well-designed EPR system should:

- Generate strong environmental outcomes in an efficient, transparent, and accountable manner
- Provide convenient service to consumers
- Create a financially sustainable model that is fully funded and managed by producers
- Offer producers access to recovered material for closed loop recycling

HB 6664 follows some of these principles, but we have concerns with the current language. We offer the following suggestions to improve the EPR provisions of HB 6664 which we believe would lead to better performance.

- **Clarify that the scope of covered packaging (1(a)(5))** aligns with consumers eligible for municipal recycling services, consistent with (1(f)(6)). Otherwise, commercial, institutional, and business-to-business packaging would be unintentionally captured under the bill.
- **Eliminate the litter control mandate (1(f)(9))** since covered products are only a portion of the litter stream and many contributors to litter would not be covered by the legislation. We do support litter mitigation with respect to the recycling system – that is, minimizing litter from the collection and transportation of recyclables. Broader litter mandates need to involve other contributors to the problem.
- **Allow for only one producer responsibility organization (PRO)** to conduct the initial needs assessment and prepare the initial plan. Especially for new programs, a single PRO is a best practice. At the time of plan renewal, the Department may authorize additional PROs, if their addition would advance the objectives of the legislation.
- **The six categories of program goals (1(f)(5)) are excessive** and should be reduced to reflect key program metrics and measurement realities.
 - Areas over which producers have control include collection of material (a collection rate) and the sale of processed material from MRFs or similar entities (a recycling rate). (The difference between these yields the contamination rate.) Attempting to measure output from material reclaimers or reprocessors who fall outside the scope of the legislation would be challenging, since these are proprietary processes operated by firms unregulated by the program.
 - Source reduction is better managed through eco-modulation and fees, rather than setting arbitrary targets that discriminate against early innovators like the beverage industry who have already light-weighted and re-designed their packages.
- **The ten proposed fee eco-modulation factors (1(h)) are impractically complex.** Combining all of these factors into a coherent rate schedule for each material type would be impossible. We recommend that for the initial plan the law should guide producers to set base fees on a material-by-material basis to cover collection and processing system costs net of scrap value (avoiding cross-material subsidies) and to fund the needs assessment, outreach programs, and administration costs of the PRO and the state. Eco-modulation should be limited to encouraging more recyclable materials and designs/penalizing disruptors and use of recycled content.
- **Severe penalties described in the bill (1(ee))** should only be imposed after providing notice of violation, an opportunity to remedy the violation, and an appeal process.
- **Producers should receive priority access to recovered materials, at market prices.** The plan should outline a process whereby funding producers or the PRO

can purchase materials recovered through the system to return to new products, especially for those materials subject to minimum recycle content requirements. This prevents down-cycling and helps promote circularity of materials. It should be included as a plan requirement in (1(f)).

Conclusion

The beverage industry has taken a proactive position in support of well-designed EPR programs for packaging and paper and we are committed to continuing that effort. While this legislation embeds many of our principles for producer governance and operation, we cannot support it without modifications to address the concerns we have identified.

We must also oppose the minimum content requirements as written and would urge the committee to consider models adopted in Maine, New Jersey, and Washington, which we believe are workable and effective.

We appreciate the opportunity to submit our views and are available as a resource to help improve this legislation.